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Attorneys for Plaintiffs,  
WARNER BROS. RECORDS INC.;  
INTERSCOPE RECORDS; MAVERICK  
RECORDING COMPANY; UMG RECORDINGS,  
INC.; BMG MUSIC; and VIRGIN RECORDS  
AMERICA, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

WARNER BROS. RECORDS INC., a Delaware  
corporation; INTERSCOPE RECORDS, a  
California general partnership; MAVERICK  
RECORDING COMPANY, a California joint  
venture; UMG RECORDINGS, INC., a  
Delaware corporation; BMG MUSIC, a New  
York general partnership; and VIRGIN  
RECORDS AMERICA, INC., a California  
corporation,

Plaintiffs,

v.

JOHN DOE #2,

Defendant.

CASE NO. 3:07-CV-04842-MJJ

**The Honorable Martin J. Jenkins**

***EX PARTE* APPLICATION TO CONTINUE  
CASE MANAGEMENT CONFERENCE  
AND EXTEND TIME TO SERVE  
DEFENDANT AND [PROPOSED] ORDER**

1 Plaintiffs respectfully request that the Court continue the case management conference  
2 currently set for January 8, 2008 at 2:00 p.m. to May 6, 2008. Plaintiffs further request, pursuant to  
3 the Federal Rules of Civil Procedure, Rules 4(m) and 6(b)(1), that Plaintiffs' time to serve the  
4 Summons and Complaint on Defendant be extended from January 18, 2008 to May 16, 2008. As set  
5 forth in more detail below and in the accompanying declaration, this application is made *ex parte*  
6 because Defendant's identity is not yet known to Plaintiffs. Declaration of Matthew Franklin Jaksa  
7 ("Jaksa Decl."), ¶ 5.

8 Plaintiffs filed the Complaint against Defendant John Doe #2 ("Defendant") on September  
9 20, 2007. Jaksa Decl., ¶ 2. Also on September 20, 2007, Plaintiffs filed their *Ex Parte* Application  
10 for Leave to Take Immediate Discovery, seeking the Court's permission to serve a Rule 45 subpoena  
11 on San Francisco State University ("SFSU") so that Plaintiffs could obtain information sufficient to  
12 identify Defendant. Jaksa Decl., ¶ 4. The Court has not yet ruled on Plaintiffs' *Ex Parte* Application  
13 for Leave to Take Immediate Discovery. Jaksa Decl., ¶ 5.

14 If the Court grants Plaintiffs' *Ex Parte* Application for Leave to Take Immediate Discovery,  
15 Plaintiffs will attempt to determine Defendant's identity by serving a Rule 45 subpoena on SFSU.  
16 Jaksa Decl., ¶ 6. However, until that time, Plaintiffs cannot seek discovery from SFSU, and  
17 therefore cannot identify and serve Defendant or otherwise advance the present litigation. Jaksa  
18 Decl., ¶¶ 5, 7, 9.

19 Given the foregoing circumstances, a case management conference is unnecessary at this  
20 time. Plaintiffs therefore respectfully request that the Court continue the case management  
21 conference currently set for January 8, 2008, at 2:00 p.m. to May 6, 2008.

22 Furthermore, the original time period for Plaintiffs to serve the Summons and Complaint on  
23 Defendant will expire on January 18, 2008. Jaksa Decl., ¶ 8. Unless and until Plaintiffs learn  
24 Defendant's identity, Plaintiffs will be unable to amend the complaint to name Defendant, or serve  
25 the amended complaint on Defendant. Jaksa Decl., ¶ 9. Even if the Court were to grant Plaintiffs'  
26 *Ex Parte* Application for Leave to Take Immediate Discovery in the near future and Plaintiffs were  
27 then to immediately serve a subpoena on SFSU, it is unlikely that Plaintiffs would learn Defendant's  
28 identity before the original service deadline passes. Moreover, Plaintiffs would be left with little or

1 no time to contact Defendant and attempt to resolve this matter or to amend the complaint to name  
2 Defendant and attempt to serve the amended complaint.

3 Therefore, Plaintiffs respectfully request that the time to serve the Summons and Complaint  
4 on Defendant be extended to May 16, 2008.

5 Dated: December 20, 2007

HOLME ROBERTS & OWEN LLP

6 By: /s/ Matthew Franklin Jaksa  
7 MATTHEW FRANKLIN JAKSA  
8 Attorney for Plaintiffs  
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13 **ORDER**

14 Good cause having been shown:

15 **IT IS ORDERED** that the case management conference currently set for January 8, 2008, at  
16 2:00 p.m. be continued to May 6, 2008.

17 **IT IS FURTHER ORDERED** that, pursuant to the Federal Rules of Civil Procedure, Rules  
18 4(m) and 6(b)(1), Plaintiffs' time to serve the Summons and Complaint on Defendant be extended to  
19 May 16, 2008.  
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22 Dated: \_\_\_\_\_

23 By: \_\_\_\_\_  
24 Honorable Martin J. Jenkins  
25 United States District Judge  
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